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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/591,651	02/12/1996	JOHN B. CLASSEN	CLASSEN=1A	9417

1444 7590 02/11/2003

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EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED: 02/11/2003

58

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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50

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Commissioner of Patents and Trademarks

**Notification of Non-Compliance
With 37 CFR 1.192(c)**

Application No.

08/591,651

Applicant(s)

CLASSEN, JOHN B.

Examiner

Zachariah Lucas

Art Unit

1648

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

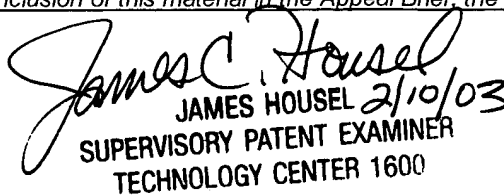
The Appeal Brief filed on 05 November 2002 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192 (c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENTIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☐ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☐ A single ground of rejection has been applied to two or more claims in this application, and
 - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
 - (b) ☐ the brief includes the statement required by 37 CFR 1.192(c) (7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

The Appeal Brief does not correctly state the status of all the claims. Claims that are still pending in the case have been omitted (e.g. claims 33-40, 79-88), and claims that have been cancelled have been indicated to be pending (e.g. claim 159). Further, it is unclear what is meant in the sentence after the one identifying the pending claims stating, "All other claims are rejected." Pages 1-2 of the Appeal Brief. If a claim is not pending, it cannot be under rejection. The copy of the claims in the Appendix to the Appeal Brief does not correctly reflect the status of the claims as of entry of the October 18, 2002 amendment.

The Appeal Brief referred to above includes reference to an Affidavit and to exhibits submitted after appeal. These documents have been denied entry by the examiner (paper 45) and by Petition (paper 49) because they have been found wanting in "good and sufficient reasons why they were not earlier presented," under 37 CFR 1.195. Inclusion of such material in the Appeal brief is therefore improper. In view of the inclusion of this material in the Appeal Brief, the examiner finds the brief defective.


JAMES HOUSEL 2/10/03
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